

When is ‘wear and tear’ fair?

- The Adjudication Digest takes a recent decision by an Adjudicator and sets out the reasons behind it. We hope that you will find these digests informative in understanding how we reach our adjudication decisions.
- This document is for guidance only – it is not intended to guarantee when an award will be made.
- Each dispute is different and the actual award made will be based on our interpretation of the specific evidence presented to us

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The aim of these Digest reports is to help tenants, landlords and agents better understand how we make our adjudication decisions. The names of the parties involved have been removed and this is only a brief summary of the dispute.

When wear is fair

This month's case looks at the issue of fair wear and tear.

Amount of deposit in dispute	£205.00
Award to Tenant	£115.00
Award to Agent (on behalf of landlord)	£90.00

The landlord claimed £65 for cleaning and £140 to repaint the hallway due to marking on the walls at the end of the tenancy.

The inventory/check in report from the start of the tenancy described the property and its contents as being in *'good clean condition unless otherwise stated.'* There were no additional comments in relation to cleaning and the comment in relation to the hallway indicated that there were minor marks around the doorframe.

The tenancy lasted for a period of 1 year. According to the check out report, the property was generally clean at the end of the tenancy but with light dust in a number of areas and further cleaning required to the oven and hob due to burnt on grease marks. The landlord intended to carry out the cleaning himself.

In relation to the hallway, the check out report noted heavy scuff marks to one side, possibly caused by leaning a bicycle up against the surface. The facing wall was noted to have occasional light marks. The landlord submitted an estimate from a contractor to repaint 3 walls including the area around the door.

The tenants said that they left the property 3 weeks before the end of the tenancy and that it was clean at that point. Any dust was therefore, according to the tenants, what would happen when the property was left empty for that period. The tenants said that they had cleaned the oven and hob thoroughly but they were old appliances and it was not possible to remove all the marks.

The adjudicator awarded the landlord the full cost of cleaning, noting that the tenants were responsible for ensuring that the property was clean at the end of the tenancy and not just at the point they left. Although it appeared that the tenants had tried to clean the oven and hob, the evidence suggested it was less clean at the end of the tenancy. The amount claimed by the landlord appeared reasonable for the work required.

In assessing the claim for redecoration, the adjudicator's view was that the décor was in generally good condition at the start of the tenancy, although it did not appear to have been freshly painted. The hallway is a 'high traffic' area and the property was occupied by 3 students for a period of 1 year. It was therefore to be expected that the condition of the walls would deteriorate compared to the start of the tenancy in the course of normal occupation.

The evidence demonstrated that the condition of 2 of the 3 walls had not changed beyond what would reasonably be expected. The damage to the third wall seemed to be more extensive and the adjudicator agreed that a contribution towards the redecoration was reasonable. A landlord should expect to have to redecorate a hallway every 2-3 years because of its location in the property. It was therefore likely that the condition of the third wall meant that repainting may have to be done around 12-18 months ahead of a normal

schedule. Taking into account the timescales and the fact that only one wall was damaged beyond fair wear and tear, the adjudicator awarded £25 as a contribution towards redecoration.

So what are the key points here?

Fair wear and tear is 'damage' in the sense that it represents a change in the condition of an item. However, it is a level of change or damage that the law regards as reasonable and arising out of the normal occupation of the property.

The crucial point to understand is that the tenant is not responsible for damage that might be classified as fair wear and tear.

Determining the boundary between fair wear and tear and more extensive damage is a matter of judgement depending on the evidence presented. The adjudicator will consider a number of variables including the length of the tenancy, the number of occupants, the location of the damage and the quality of the item.

In general terms, the longer the tenancy or the greater the number of occupants, the higher the level of wear and tear.

Where there is enough evidence available, the adjudicator will use general industry guidelines on the expected lifespan of an item; for example that décor in a hallway might last for 2-3 years, but décor in a bedroom might last 5 years; or that a standard quality machine machine might last 5 years.

Considerations of fair wear and tear do not apply to cleaning claims.